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Remarks

Reconsideration of the above-captioned application is respectfully requested. Claims 1-4, 6, 7, 9-16, 18, 20-25, 27, 29, and 30 (previously misnumbered as 31) have been rejected under 35 U.S.C. §102 as being anticipated by Nickum, USPN 6,721,954, Claims 5, 17, and 26 have been rejected under 35 U.S.C. §103 as being unpatentable over Nickum in view of Hunter et al., USPN 5,485,518, and Claims 8, 19, and 28 have been rejected under 35 U.S.C. §103 as being unpatentable over Nickum.

The fact that Applicant has focussed its comments distinguishing the present claims from the applied references and countering certain rejections must not be construed as acquiescence in other portions of rejections not specifically addressed.

To overcome the Examiner's rejections, all three independent claims have been amended to specify in various ways that aspects of the present logic must be executed in the PVR, as opposed to in the TV. This is in contrast to Nickum, in which the relied-upon logic is executed by the EPG 310 of the viewing system 300, col. 5, line 37 continuing to col. 6, line 11. The examiner correctly notes the presence of a recording device 322 in Nickum but nothing in Nickum teaches or suggests that the recording device 322 do anything other than store a library of programs, col. 6, lines 28-48. There is no biologic recognition logic or user profile generation logic in the relied-upon recording device 322. Plainly, had Nickum contemplated such, it could have suggested it, but notably it did not. Only the present invention has critically recognized the desirability of placing the relevant logic in a PVR, so that an entire TV need not be modified to accommodate it.

Claim 1 has been still further amended by incorporating the limitations of now-canceled Claim 7, namely, that the PVR accesses a database over a WAN. The rejection correctly observes that the main

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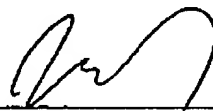
memory 116 accesses a set of instructions but this main memory is not part of the relied-upon recording device 322.

With respect to the rejections of Claims 8, 19, and 28 on the basis of "official notice", the taking of official should be rare and in any case is usually inappropriate in esoteric fields of art, MPEP §2144. Should these rejections be persisted in, a prior art showing of the officially noticed elements, along with a prior art suggestion to combine them in the combinations claimed, are seasonably requested under MPEP §2144.03.

Note that "official notice" is appropriate only of facts that are susceptible to unquestioned, instant recognition, id. Here, Applicant disputes that sending, to a marketing entity, a viewer profile with preferences derived from biologic signals sensed at a PVR is so well known as to be capable of unquestioned and instant recognition. Indeed, the opposite.

The Examiner is cordially invited to telephone the undersigned at (619) 338-8075 for any reason which would advance the instant application to allowance.

Respectfully submitted,



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